

Message Text

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ORIGIN PM-04

INFO OCT-01 EUR-12 ISO-00 L-03 MC-02 H-02 TRSE-00 DODE-00

EB-07 NRC-05 NSAE-00 USIA-06 ERDA-05 CIAE-00 COME-00

ACDA-05 SS-15 NSC-05 /072 R

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P 122132Z MAR 76

FM SECSTATE WASHDC

TO AMEMBASSY OTTAWA PRIORITY

C O N F I D E N T I A L STATE 060921

E.O. 11652: GDS

TAGS: MASS, CA

SUBJECT: LOCKHEED LRPA PROJECT: PENDING US LEGISLATION

REFS: A) OTTAWA 1002, B) 1003, C) STATE 56632

1. RATHER THAN ADDRESS SPECIFIC QUESTIONS POSED IN REFTEL
B PARA 1, DEPARTMENT BELIEVES IT WOULD BE MORE PRODUCTIVE
TO RESTATE LRPA PROBLEM AS FOLLOWS:

A. BOTH HOUSE AND SENATE VERSIONS OF FY 1976 SECURITY
ASSISTANCE LEGISLATION PROVIDE THAT NO MUNITIONS CONTROL
EXPORT LICENSES CAN BE ISSUED FOR THE EXPORT OF MAJOR
DEFENSE EQUIPMENT VALUED AT DOLS. 25 MILLION OR MORE UNLESS
SOLD THROUGH FMS, I.E. DEPT WILL BE UNABLE TO ISSUE EXPORT
LICENSES FOR PERFORMANCE OF COMMERCIAL SALES CONTRACTS
WHICH ARE ENTERED INTO AFTER DATE OF ENACTMENT. SECONDLY,
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UNDER THE SENATE BILL, ANY PROPOSED LICENSE FOR EXPORT

1) OF ANY MAJOR DEFENSE EQUIPMENT IRRESPECTIVE OF VALUE OR
2) OF ANY DEFENSE ARTICLES OR SERVICES VALUED AT DOLS 25
MILLION OR MORE, WOULD HAVE TO BE CERTIFIED TO CONGRESS
AND WOULD LIE BEFORE CONGRESS FOR 30 CALENDAR DAYS BEFORE
THE PROPOSED LICENSE COULD BE ISSUED. AT ANY TIME DURING
THIS PERIOD, CONGRESS COULD PREVENT ISSUANCE OF THE LICENSE
BY ADOPTING A CONCURRENT RESOLUTION TO THAT EFFECT.

B. ACCORDINGLY, LRPA PROBLEM IS AS FOLLOWS (ASSUMING
ABOVE-OUTLINED PROVISIONS BECOME LAW): CONCLUSION OF CON-
TRACT OR LETTERS OF INTENT PRIOR TO EFFECTIVE DATE OF
LEGISLATION WOULD PERMIT COMMERCIAL SALE TO PROCEED ON
COMMERCIAL, RATHER THAN FMS, BASIS. NO EXPORT LICENSE
COULD BE ISSUED IN IMPLEMENTATION OF SUCH A CONTRACT IF THE
CONTRACT WERE SIGNED AFTER EFFECTIVE DATE OF LEGISLATION;
ACCORDINGLY, WHILE LOCKHEED AND GOC WOULD NOT BE BARRED
FROM CONCLUDING SUCH CONTRACT AFTER BILL ENACTED, THERE
WOULD BE NO POINT IN DOING SO AS LOCKHEED WOULD BE UNABLE
TO PERFORM IN ABSENCE EXPORT LICENSES WHICH COULD NOT
LAWFULLY BE ISSUED.

C. SECONDLY, EVEN IF CONTRACT CONCLUDED PRIOR TO
EFFECTIVE DATE OF LAW, TO EXTENT THAT ANY EXPORTS UNDER
LRPA PROGRAM INVOLVE EITHER MAJOR DEFENSE EQUIPMENT OR
VALUATION AT \$25,000,000 OR MORE, PROVISIONS OF SENATE
BILL REGARDING CERTIFICATION TO CONGRESS, THIRTY-DAY
WAITING PERIOD, AND POSSIBLE CONGRESSIONAL DISAPPROVAL
WOULD APPLY.

2. WE REGRET FUNDAMENTAL INABILITY TO RESPOND DEFINITIVE-
LY TO EMBASSY'S INQUIRIES INASMUCH AS WE CANNOT NOW PRE-
DICT FINAL FORM LEGISLATION WILL TAKE, OR WHEN IT WILL
BE ENACTED. WE ARE CONTINUING TO SEEK MODIFICATION OF
MORE OBJECTIONABLE PROVISIONS OF BILLS. IN PARTICULAR,
WE HAVE RAISED WITH HOUSE AND SENATE CONFEREES POSSIBILITY
OF DELAYED EFFECTIVE DATE FOR PROHIBITION AGAINST LICENSES
FOR COMMERCIAL SALE OF MAJOR DEFENSE EQUIPMENT VALUED AT
\$25 MILLION OR MORE. THIS PROPOSAL WOULD ALLOW UNTIL
SEPTEMBER 30 FOR COMPLETION AND SIGNATURE OF CONTRACTS
NOW UNDER NEGOTIATION AND ALLOW SUCH CONTRACTS TO BE CAR-
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RIED OUT THROUGH COMMERCIAL CHANNELS, SUBJECT TO MUNITIONS
CONTROL EXPORT LICENSE PROCEDURES. HOWEVER, WE ARE NOT
IN POSITION TO MAKE USEFUL PREDICTIONS OF HOW SUCCESSFUL
WE WILL BE. KISSINGER

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